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EXAMINER

KRECK, JOHN J

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

The amendment dated 11/28/07 is entered. Claims 1,3-25, 27-41 are pending.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21,,22, 23, 24, 25, 27, 28, 31, 32,33, 34, 35,36, 37, 38, 39, 40, 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pignatello (U.S. Patent number 6160194) in view of JP200212136961.

Pignatello describes the process including contacting a contaminant in soil with a composition comprising hydrogen peroxide. Pignatello differs from the invention claimed in claim 1 in that dipersulfate is not taught.

JP'961 describes a process including contacting a contaminant in soil with a composition comprising a sodium dipersulfate.

"It is prima facie obvious to combine two compositions each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition to be used for the very same purpose.... [T]he idea of combining them flows logically from their having been individually taught in the prior art." In re Kerkhoven, 626 F.2d 846, 850, 205 USPQ 1069, 1072 (CCPA 1980)

Therefore, claim 1 is obvious over Pignatello in view of JP'961.

RE claims 7-13: order of performing process steps is prima facie obvious in the absence of new or unexpected results); In re Gibson, 39 F.2d 975, 5 USPQ 230 (CCPA 1930) (Selection of any order of mixing ingredients is prima facie obvious.)

RE claims 17, 18, 20, 21, 23, 24: see Pignatello at claim 1.

RE claims 19, 22 see Pignatello at table 6.

Regarding independent claim 25:

Pignatello describes the composition including hydrogen peroxide. Pignatello differs from the invention claimed in claim 25 in that dipersulfate is not taught.

JP'961 describes a composition comprising a sodium dipersulfate.

"It is prima facie obvious to combine two compositions each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition to be used for the very same purpose.... [T]he idea of combining them flows logically from their having been individually taught in the prior art." In re Kerkhoven, 626 F.2d 846, 850, 205 USPQ 1069, 1072 (CCPA 1980)

Therefore, claim 25 is obvious over Pignatello in view of JP'961.

RE claims 31, 32, 34, 35, 37, 38, 39, 40, 41: see Pignatello at claim 1.

RE claims 33, and 36 see Pignatello at table 6.

Claims 5, 6, 29, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pignatello and JP'961 as applied to claims 1 and 25 above, and further in view of Giletto, et al. (U.S. Patent number 6,569,353).

Pignatello and JP'961 fail to describe the mole ratios.

It is noted that Pignatello describes the treatment of soil contaminated with organophosphates.

Giletto describes a process and composition for treating, inter alia, organophosphates. Giletto describes a mole ratio of peroxide and persulfate (e.g. example 1) in a range which anticipates the claimed ranges. One of ordinary skill in the art would have found it obvious to have used a mole ratio in the claimed range, since Giletto teaches that a similar range is effective for organophosphates.

Response to Arguments

3. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kreck whose telephone number is 571-272-7042. The examiner can normally be reached on Mon-Fri 6am-3pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bagnell can be reached on 571-272-6999. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John Kreck/
Primary Examiner, Art Unit 3672

11 February 2008